

1
2 UNITED STATES DISTRICT COURT
3 DISTRICT OF DELAWARE
4 C.A. No. 02-1294-JJF

5 -----x
6 MBIA INSURANCE CORPORATION AND
7 WELLS FARGO BANK, N.A. (f/k/a
8 WELLS FARGO BANK MINNESOTA N.A.)
9 AS TRUSTEE OF SFC GRANTOR TRUST
10 SERIES 2000-1, SFC GRANTOR TRUST,
11 SERIES 2000-2, SFC GRANTOR TRUST,
12 SERIES 2000-3, SFC GRANTOR TRUST,
13 SERIES 2000-4, SFC GRANTOR TRUST,
14 SERIES 2001-1, SFC GRANTOR TRUST,
15 SERIES 2001-2, SFC OWNER TRUST,
16 SERIES 2000-I, AND SFC GRANTOR
17 TRUST, SERIES 2001-3,
18 Plaintiffs/
19 Counterclaim Defendants, .

20 - vs -

21 ROYAL INDEMNITY COMPANY,
22 Defendant/
23 Counterclaim Plaintiff.

24 -----x
25 ROYAL INDEMNITY COMPANY,
Third-Party Plaintiff,

- vs -

ANDREW N. YAO, STUDENT LOAN SERVICING
LLC, STUDENT LOAN ACCEPTANCE II LLC,
STUDENT LOAN ACCEPTANCE III LLC, STUDENT
LOAN ACCEPTANCE V LLC, STUDENT LOAN
ACCEPTANCE VIII LLC, STUDENT LOAN
ACCEPTANCE IX LLC, SFC FINANCIAL LLC I,
SFC FINANCIAL LLC II, SFC FINANCIAL LLC
VI, SFC FINANCIAL LLC VII,
* Third Party Defendants.

-----x
August 22, 2007
9:35 a.m.

TRACK I WITNESS: WILLIAM HECHT

1
2 W I L L I A M H E C H T,
3 called as a witness, having been first
4 duly sworn, was examined and testified
5 as follows:

6 EXAMINATION BY MR. EPSTEIN: 09:35:15AM

7 Q. Good morning, Mr. Hecht. My 09:35:20AM
8 name is Neil Epstein. I represent Robert 09:35:22AM
9 Bast, Pamela Gagne and Rod Gagne as a 09:35:28AM
10 trustee in certain trusts in the 09:35:31AM
11 Gagne/Bast family. 09:35:35AM

12 Mr. Hecht, do you have a copy 09:36:27AM
13 of the report that you prepared in this 09:36:28AM
14 case with you? 09:36:32AM

15 A. No. 09:36:32AM

16 MR. EPSTEIN: I will make a 09:36:46AM
17 statement on the record. Unfortunately 09:36:47AM
18 the box of documents that I sent up has 09:36:50AM
19 not been delivered. There has been a 09:36:52AM
20 trace run on it and we should get it 09:36:53AM
21 pretty soon. 09:36:56AM

22 If you have a copy you could 09:36:58AM
23 show him, it would be helpful, or I will 09:37:01AM
24 have to read portions to Mr. Hecht. 09:37:08AM

25 MR. DWYER: You will get it in 09:37:13AM

1 HECHT

2 the day that you prepared your report 11:12:37AM
3 along with your colleagues who actually 11:12:39AM
4 typed the report, you had no idea as to 11:12:43AM
5 what the collateral was with respect to 11:12:46AM
6 any of these 170 loans, correct? 11:12:48AM

7 A. No, I don't believe it is 11:12:50AM
8 disclosed as to the nature of the 11:12:52AM
9 collateral. 11:12:54AM

10 Q. So you had no idea, correct? 11:12:54AM

11 A. The only thing I knew is that 11:12:57AM
12 it is secured or unsecured. 11:12:59AM

13 Q. You didn't know the nature of 11:13:01AM
14 the collateral? 11:13:02AM

15 A. That's correct. 11:13:04AM

16 MR. DWYER: Can we take a 11:13:05AM
17 break? 11:13:07AM

18 MR. EPSTEIN: Sure. 11:13:07AM

19 (Recess taken.) 11:13:07AM

20 BY MR. EPSTEIN: 11:27:28AM

21 Q. Would you take a look at your 11:27:37AM
22 report, please. I want to ask you, on 11:27:38AM
23 page 3 of your report, you make the 11:27:46AM
24 following statement: "We discussed 11:27:53AM
25 interest rates and commitment fees with a 11:27:55AM

1 HECHT

2 former bank executive familiar with 11:27:58AM

3 higher-risk commercial loans." 11:28:01AM

4 First of all, the "we," is that 11:28:03AM

5 you? 11:28:06AM

6 A. I was on a conference call with 11:28:09AM

7 Jim Horgan and this individual. 11:28:12AM

8 Q. What's the name of the 11:28:18AM

9 individual? 11:28:19AM

10 A. Jim Ruane. 11:28:19AM

11 Q. What bank did he work at? 11:28:22AM

12 A. NationsBank was one. There was 11:28:24AM

13 another bank through the mergers. 11:28:29AM

14 Q. Is he still with NationsBank? 11:28:32AM

15 A. No, he is a consultant. 11:28:36AM

16 Q. Do you know the name of his 11:28:37AM

17 consulting firm? 11:28:39AM

18 A. I don't know the name of his 11:28:39AM

19 current firm. He was with 11:28:40AM

20 PricewaterhouseCoopers for several years, 11:28:45AM

21 then he went out on his own. 11:28:48AM

22 Q. Have you ever heard the name 11:28:51AM

23 Huron Consulting Group? 11:28:54AM

24 A. Yes, he was with Huron for a 11:28:55AM

25 while. I don't believe he is still there. 11:28:57AM

1 HECHT

2 Q. Had you ever done any work with 11:28:59AM
3 Mr. Ruane before? 11:29:02AM

4 A. No. 11:29:03AM

5 Q. Did you satisfy yourself that 11:29:04AM
6 he was reasonably competent and 11:29:08AM
7 knowledgeable to answer whatever questions 11:29:14AM
8 you had? 11:29:20AM

9 A. Yes. 11:29:20AM

10 Q. What did he tell you to satisfy 11:29:21AM
11 you that he had that competence and that 11:29:23AM
12 knowledge? 11:29:26AM

13 A. Well, the mere fact of his 11:29:26AM
14 position with PricewaterhouseCoopers and 11:29:30AM
15 Huron and his background and what Jim 11:29:34AM
16 Horgan had said about him. I didn't have 11:29:36AM
17 to delve into his background. 11:29:40AM

18 Q. Do you know what his background 11:29:42AM
19 was with respect to bridge loans? 11:29:45AM

20 A. He was involved as a banker and 11:29:48AM
21 dealt with bridge loans. 11:29:51AM

22 Q. Did he say that? 11:29:52AM

23 A. Yes. 11:29:53AM

24 Q. Did he describe the loans? 11:29:55AM

25 A. No, we didn't go into the 11:29:57AM

1 HECHT

2 details of particular loans that he made 11:29:59AM
3 during his career. 11:30:01AM

4 Q. Has it been your experience 11:30:02AM
5 that banks generally provide bridge loans? 11:30:05AM

6 A. Sometimes. 11:30:09AM

7 Q. I said generally. Would you 11:30:11AM
8 call that a significant part of a bank's 11:30:14AM
9 business, to provide bridge loans? 11:30:20AM

10 A. I have no idea what part of a 11:30:22AM
11 bank's business that would be. 11:30:25AM

12 Q. Did you ask him what industries 11:30:27AM
13 he was involved with in bridge loans at 11:30:30AM
14 the time that he was a banker? 11:30:32AM

15 A. No. 11:30:34AM

16 Q. None whatsoever? 11:30:36AM

17 A. I didn't ask him. 11:30:38AM

18 Q. Did anyone on this conversation 11:30:40AM
19 ask him? 11:30:42AM

20 A. No. 11:30:42AM

21 Q. Did you ever see any 11:30:43AM
22 information concerning his knowledge of 11:30:45AM
23 bridge loans in terms of what companies 11:30:48AM
24 that they were made to, what were the 11:30:51AM
25 financial aspects of the companies, what 11:30:53AM

1 HECHT

2 collateral was given, all the questions I 11:30:55AM
3 asked you about these other companies on 11:30:58AM
4 your list? Did you ask him those 11:31:02AM
5 questions? 11:31:05AM

6 A. No. 11:31:05AM

7 Q. What did he say to you, or what 11:31:06AM
8 did he say to the group that was on the 11:31:08AM
9 phone? 11:31:11AM

10 A. Jim Horgan and I, that was the 11:31:12AM
11 group. We described the type of situation 11:31:15AM
12 we have here with these loans and the 11:31:18AM
13 length of the loans, the interest rates, 11:31:22AM
14 the points, and so forth, and we asked his 11:31:24AM
15 opinion as to what he had seen in the 11:31:27AM
16 marketplace for similar types of 11:31:31AM
17 situations. 11:31:33AM

18 Q. So you asked him his opinion or 11:31:34AM
19 facts? 11:31:40AM

20 A. Facts as to what -- 11:31:40AM

21 Q. Not his opinion? 11:31:42AM

22 A. I don't think I used -- if I 11:31:43AM
23 used the word "opinion," that's incorrect. 11:31:45AM

24 Q. I think you did. 11:31:47AM

25 A. We asked him for information 11:31:49AM

1 HECHT

2 regarding loans of this nature to the best 11:31:50AM

3 of his ability that he could give us. 11:31:52AM

4 Q. And "of this nature," you are 11:31:54AM

5 talking about the loans that my clients 11:31:56AM

6 gave to Student Finance? 11:31:59AM

7 A. Yes. We described the types of 11:32:00AM

8 loans and the periods of time involved. 11:32:04AM

9 Q. Did you describe the collateral 11:32:07AM

10 that was given? 11:32:08AM

11 A. Yes. 11:32:10AM

12 Q. Did you ask him whether he had 11:32:11AM

13 experienced any bridge loans where the 11:32:14AM

14 collateral was similar? 11:32:16AM

15 A. No, I didn't ask him. 11:32:18AM

16 Q. Did you ask him to describe 11:32:20AM

17 anything at all about the nature of the 11:32:23AM

18 bridge loans that he was commenting on, or 11:32:26AM

19 was it more his statements being very 11:32:30AM

20 general, "Well, I've seen bridge loans 11:32:33AM

21 where the interest rates were X and the 11:32:35AM

22 commitment fees were Y"? 11:32:38AM

23 MR. DWYER: I object to the 11:32:41AM

24 form. 11:32:41AM

25 A. It was more of a general nature 11:32:42AM

1 HECHT

2 where we were trying to get "What is the 11:32:45AM
3 maximum type of loan -- commitment fee or 11:32:49AM
4 origination fee for a loan of this nature 11:32:56AM
5 that you have seen in your experience." 11:32:58AM
6 That's where I came up with the 2 to 4 11:33:00AM
7 percent maximum. 11:33:02AM

8 Q. Where did Mr. Ruane practice 11:33:07AM
9 his profession of being a banker? 11:33:11AM

10 A. I believe it was in the New 11:33:14AM
11 York area. I'm not exactly sure where. 11:33:16AM

12 Q. Did you ask him? 11:33:18AM

13 A. No. 11:33:19AM

14 Q. NationsBank you mentioned. 11:33:23AM
15 They are located in -- do you know where 11:33:27AM
16 they are located? 11:33:29AM

17 A. I think they are headquartered 11:33:30AM
18 down south, in Charlotte. I'm not sure. 11:33:33AM

19 Q. What did he say about his -- 11:33:38AM
20 what were his titles at various banks that 11:33:42AM
21 he worked at? 11:33:45AM

22 A. I don't know. 11:33:45AM

23 Q. You didn't ask him? 11:33:46AM

24 A. No. 11:33:47AM

25 Q. So he could have been a teller? 11:33:48AM

HECHT

1
2 opining on? 12:00:31PM
3 A. That's correct. 12:00:32PM
4 Q. That's your testimony? 12:00:32PM
5 A. That's correct. 12:00:33PM
6 Q. The bottom of page 3, you also 12:00:43PM
7 give an opinion regarding the general 12:00:57PM
8 partnership interests of Yao and Day Hill 12:01:05PM
9 Partners and One Summit, correct? 12:01:08PM
10 A. Correct. 12:01:12PM
11 Q. Are you giving a fair market 12:01:13PM
12 value of Mr. Yao's interests in those 12:01:16PM
13 partnerships? 12:01:20PM
14 A. No. 12:01:20PM
15 Q. Are you making any appraisal of 12:01:21PM
16 his interest in those partnerships? 12:01:23PM
17 A. No. 12:01:25PM
18 Q. The only thing you are doing is 12:01:26PM
19 taking the Houck report, the appraisals on 12:01:28PM
20 the Houck report, and as we will go 12:01:34PM
21 through later, adding in some assets that 12:01:36PM
22 were on the tax returns, correct? 12:01:38PM
23 A. No. The Houck appraisal 12:01:42PM
24 appraised the real estate. There were 12:01:48PM
25 assets in the partnership and there were 12:01:53PM

1 HECHT

2 liabilities in the partnership. There was 12:01:56PM
3 a book value of the real estate on the tax 12:02:02PM
4 return of the partnership, which is the 12:02:04PM
5 document that I used. 12:02:06PM

6 I substituted Houck's appraised 12:02:08PM
7 value for the real estate into the balance 12:02:12PM
8 sheet of the partnership as of the 12:02:17PM
9 appropriate date and did an arithmetic 12:02:22PM
10 calculation of his one-third interest 12:02:27PM
11 through his general partner. 12:02:30PM

12 Q. So you weren't making any 12:02:31PM
13 appraisal of what the fair market value of 12:02:33PM
14 his interest was, correct? 12:02:35PM

15 A. That's correct. 12:02:37PM

16 Q. And you are not qualified to do 12:02:37PM
17 that, that's also correct? 12:02:40PM

18 MR. DWYER: I object to the 12:02:42PM
19 form. 12:02:43PM

20 A. I'm not an appraiser. 12:02:43PM

21 Q. You are not an appraiser, okay. 12:02:44PM
22 And that's true with respect to both Day 12:02:46PM
23 Hill and also One Summit? 12:02:48PM

24 A. Yes. 12:02:52PM

25 Q. Now, I want to ask you a 12:02:54PM